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William S. Aholelei A0146949
 O.C.C.C. Laumaka
 5199 Kamehameha Hwy.
 Honolulu, Hawaii 96819

FILED IN THE
 UNITED STATES DISTRICT COURT
 DISTRICT OF HAWAII

OCT 02 2006

at 1 o'clock and 0 min. P
 SUE BEITIA, CLERK

In The United States District Court
 for The District of Hawaii

William S. Aholelei,
 Plaintiff,
 vs.

CIV. 03-00171 HG-KSC
 Plaintiffs' NOTICE of
 appeal to The Ninth
 Circuit Court, over
 the issues stated for
 exhibit "A" and motion
 for appoint of Counsel
 in exhibit "B"

BARBARA Kysar, Doctor S.
 Padernos, Doctor Bauman,
 DOES 1-V
 Defendants.

Plaintiff's NOTICE of appeal to the 9th Circuit
 Court over the issues stated in exhibit "A" and
 motion for appointment of Counsel in exhibit
 "B" herein.

Comes Now Plaintiff, William S. Aholelei,
 pro se inmate in the above matter hereby
 submitted and moves this Honorable Court to
 grant the Plaintiff's notice of appeal -

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to the Ninth Circuit over the issues stated in exhibit "A" and motions for appointment of Counsel in exhibit "B" herein for the following reasons:

The exhaustion rule is firmly rooted in Principles of federal and STATE comity and "Creates" a strong presumption in favor of requiring Petitioner to pursue his available federal and STATE remedies in the denial of exhibit "A" to appeal to The Ninth Circuit COURT.

See: *Grandberry v. Greer*, 481 U.S. 129, 131, 107 S. Ct. 1671 95 L. Ed. 119, 123 (1987).

Appointment of Counsel in exhibit "B"

Petitioner understands that the Honorable Court may have transferred the matter to the 9th Circuit Division and Pro se Complaints must be liberally construed particularly when Civil Rights violations are claimed.

See: *Hughes v. Rowe*, 449 U.S. 5, 9 (1980);
Ballistrere v. Pacifica Police Dept. 901 F. 2d 969, 699 (9th Cir. 1988)

Due to the fact that Petitioner was brutally beaten almost to death by seven (7) Gang members in Hialeah Prison in OCT-3-2003, and currently sufferings memory loss because of the severity of the impact to my head!

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The COURT in its discretion may appoint counsel under exceptional circumstances!

See: FERRELL V. BREWER, 935 F. 2d 1015, 1017 (9th Cir 1992).
Also See: Franklin 745 F. 2d at 1236.

A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits [and] the ability of petitioner to articulate his claims PRO SE in light of the complexity of the legal issues involved.

Ferrell, 935 F. 2d at 1017 citing Wilburn V. Escalderon, 789 F. 2d 1328 (9th Cir. 1986).

The records does disclose matters which are complex as the "massie case" which hits Hawaii in 1931, where Hawaii seventh (7th) Governor Lawrence M. Judd sentenced four (4) defendants who shot and killed Joseph Kahalawai, to one (1) hour incarceration in his office! which actions gave the implications that the officials and the people of Hawaii are not capable of administering Justice here in Hawaii!

Conclusion

Petitioner-Plaintiff seeks to allow the Clerk of the Court to stamp filed these documents for the appeal to the 9th Circuit COURT over the issues in exhibit "A" attached herein and grant an appoint of counsel in exhibit "B" herein!

And its made pursuant to exhibits "A" through "B" attached herein! And to include the affidavit of support and verification attached herein!

Dated Sept. - 27-06
Hon, HI.

William S. Aholelei
Plaintiff - PRO SE

IN The United States District Court
for The District of Hawaii

William S. Aholelei,
Plaintiff

vs

Barbara Kysar;
Doctor S. Paderes;
Doctor K. Bauman;
Does I-V,
Defendants

CIV. 03-00171 HG-KSC
Plaintiff, William S. Aholelei

Certificate of
Service herein.

I, William S. Aholelei, Plaintiff-Pro SE
in the above matter's hereby swear under
the penalty of law that on Sept. - 27 - 2006
I sent my notice of appeal over
the issues on exhibits "A" and motion
for appointment of Counsel in exhibit "B"
herein. To the United States District Court
for the District of Hawaii.

Dated Sept. 27-2006
Hon, HI

William S. Aholelei
A0146949
William S. Aholelei
Plaintiff-Pro SE